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JESUS PEÑA-GAMEZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS PEÑA-GAMEZ,

Defendant.

Case No. 1:21-cr-00107 DAD-BAM-2

**STIPULATED MOTION AND ORDER TO
REDUCE SENTENCE PURSUANT TO 18
U.S.C. § 3582(c)(2)**

RETROACTIVE CRIMINAL HISTORY
REDUCTION CASE

Judge: Hon. Dale A. Drozd

Defendant, JESUS PEÑA-GAMEZ, by and through his attorney, Assistant Federal Defender Peggy Sasso, and plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney Shelley D. Weger, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the term of imprisonment in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), after taking into account the policy statements set forth in USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent they are applicable;

2. The United States Sentencing Commission recently amended the Sentencing Guidelines to include what now appears in USSG § 4C1.1 (“zero-point provision”). *See* Amendment 821, Part B, Subpart 1. The zero-point provision provides a 2-offense-level

reduction for certain offenders who present zero criminal history points and satisfy the criteria listed in USSG § 4C1.1(a). The United States Sentencing Commission made the zero-point provision retroactive beginning February 1, 2024. *See* USSG § 1B1.10(e)(2) (Nov. 1, 2023); 88 Fed. Reg. 60534;

3. On April 18, 2022, this Court sentenced Mr. Peña-Gamez to a term of 63 months;

4. Mr. Peña-Gamez's total offense level was 27, his criminal history category was I (based on him having zero criminal history points), and the resulting guideline range was 70 to 87 months. Mr. Peña-Gamez was not subject to the applicable statutory mandatory minimum sentence for the reasons stated in Section II of the Statement of Reasons;

5. The sentencing range applicable to Mr. Peña-Gamez was subsequently lowered by the zero-point provision;

6. Mr. Peña-Gamez is eligible for a reduction in sentence, which reduces his total offense level by 2 from 27 to 25, and his amended advisory guideline range is reduced to 57 to 71 months;

7. Because Mr. Peña-Gamez is eligible for a reduction in sentence, the parties request the Court enter the order lodged herewith reducing Mr. Peña-Gamez's term of imprisonment to 57 months effective February 1, 2024, but if the amount of time served as of February 1, 2024 exceeds 57 months, the sentence is instead reduced to a sentence of time-served as of February 1, 2024.

Respectfully submitted,

Dated: January 30, 2024

PHILLIP A. TALBERT
United States Attorney

/s/ Shelley D. Weger
SHELLEY D. WEGER
Assistant U.S. Attorney

Attorney for Plaintiff
UNITED STATES OF AMERICA

Dated: January 30, 2024

HEATHER E. WILLIAMS
Federal Defender

/s/ Peggy Sasso
PEGGY SASSO
Assistant Federal Defender

Attorneys for Defendant
JESUS PEÑA-GAMEZ

ORDER

This matter came before the Court on the stipulated motion of the parties for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree, and the Court finds, that Mr. Peña-Gamez is entitled to the benefit of Amendment 821, Part B, Subpart 1, the new zero-point provision, which reduces the total offense level from 27 to 25, resulting in an amended guideline range of 57 to 71 months.

IT IS HEREBY ORDERED that, pursuant to USSG § 1B1.10(b), the term of imprisonment imposed in 2022 is reduced to a term of 57 months, effective February 1, 2024, but if the amount of time served as of February 1, 2024 exceeds 57 months, the sentence is instead reduced to a sentence of time-served as of February 1, 2024.

IT IS FURTHER ORDERED that all the terms and provisions of the original judgment remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above reduction in sentence and shall serve certified copies of the amended judgment on the United States Bureau of Prisons and the United States Probation Office.

Unless otherwise ordered, Mr. Peña-Gamez shall report to the United States Probation Office within seventy-two hours after his release.

IT IS SO ORDERED.

Dated: **January 30, 2024**


UNITED STATES DISTRICT JUDGE